



Pennsylvania Department of Environmental Protection

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February 25, 2000

The Secretary

717-787-2814

Bradley M. Campbell
Regional Administrator
U.S. EPA, Region III
Mail Code 3RA00
1650 Arch Street
Philadelphia, PA 19103-2029

Dear Brad:

This letter is in response to the federal Environmental Protection Agency's (EPA) Notice of Proposed Rulemaking (NPR) on the one-hour attainment demonstration for the Philadelphia-Wilmington-Trenton Area that was published in the Federal Register on December 16, 1999 (64 FR 70428) and the Notice of Adequacy Status that was published in the Federal Register on January 20, 2000 (65 F.R. 3230).

The Department is reaffirming our commitment to:

- a) continue to participate in a consultative process to address regional transport;
- b) continue to identify emission reductions needed from upwind states; and
- c) the development and implementation of control measures and requirements in accordance with the process provided in the Pennsylvania Air Pollution Control Act (APCA) and other applicable laws that, along with reductions in pollutant transport, will result in reductions necessary for satisfaction of reasonable further progress requirements and attainment of the ozone one-hour standard.

These commitments are contained in Pennsylvania's August 1, 1998 State Implementation Plan (SIP) revision that EPA proposed to approve on August 25, 1999 (64 F.R. 46325). The Department has done and will continue to do what is necessary to protect the health of our citizens.

Improvement in the air quality of the nonattainment area can only occur, in part, by close cooperation among the states and the Environmental Protection Agency. The Department will continue to work closely with our neighbors, the Ozone Transport Commission and EPA to identify additional measures to solve our common air pollution problems and to determine the extent to which additional reductions are necessary in Pennsylvania. Specific additional control measures are described in more detail in the "Pennsylvania Fair Share Commitment" attached.

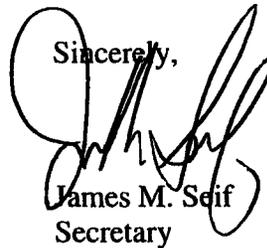


These additional measures do not include any measures that would limit highway construction. Please note that Pennsylvania is not committing to adopt any specific measure at this time.

In accordance with the process contained in the Pennsylvania Air Pollution Control Act, Pennsylvania will submit any necessary draft and final measures to EPA as soon as possible, and by October 31, 2001. As you know, Pennsylvania's regulatory process is complex and meeting the October 31, 2001 date will be challenging for any necessary measures beyond those contained in proposed Chapter 145. Pennsylvania is scheduled to promulgate the Chapter 145 Interstate Pollution Transport Reduction regulation this summer. In addition, because regular review is an important part of any planning process, Pennsylvania will submit to EPA such mid-course review as the Clean Air Act and the rules and regulations under the Clean Air Act require by December 31, 2003.

Pennsylvania also recognizes that the modeling tools are continuing to improve. EPA is developing Mobile 6, an improved model for estimating emission reductions from mobile sources. Pennsylvania will use that improved tool as required by the Clean Air Act and the rules and regulations under the Clean Air Act, to model the conformity budget for the Philadelphia attainment area.

Should you have any questions regarding this letter, please contact James M. Salvaggio, Director, Bureau of Air Quality, at 717-787-9702.

Sincerely,

James M. Seif
Secretary

Enclosures

bcc: Secretary Seif
ARRP
ARM Reading File ✓

JMS:DKC:JMS:JWH:cfc

PENNSYLVANIA'S FAIR SHARE COMMITMENT

Pennsylvania has done and will continue to do its fair share to address ozone pollution. Pennsylvania has made a commitment, as a part of the Philadelphia Attainment Demonstration to:

- a) continue to participate in a consultative process to address regional transport;
- b) continue to identify emission reductions needed from upwind states; and
- c) the development and implementation of control measures and requirements in accordance with the process provided in the Pennsylvania Air Pollution Control Act (APCA) and other applicable laws that, along with reductions in transport, will result in reductions necessary for satisfaction of reasonable further progress requirement and attainment of the one-hour ozone standard.

Consultative Process

Pennsylvania was an active participant in the Ozone Transport Commission (OTC) workgroup responsible for development of regional ozone reduction measures. That group authored the NOx Memorandum of Understanding (MOU) that formed the basis for the NOx Model Rule. Pennsylvania promulgated and implemented the model NOx cap-and-trade program described in the OTC NOx MOU. Pennsylvania has also adopted the National Low Emission Vehicle (NLEV) program originally conceived as a regional strategy of the OTC.

Pennsylvania chaired the Emissions Trading Workgroup formed as a part of the Ozone Transport Assessment Group (OTAG). Recommendations from this workgroup form the basis of the NOx cap-and-trade program recommended as a part of the NOx SIP call and required as a part of the 126 remedy.

Pennsylvania has committed to continuing its active role in working with the OTC to develop a "Regional Strategy Concerning the Development of New Control Measures" to be implemented across the OTR for attainment and maintenance of the one-hour ozone standard as well as other measures that individual states could implement to meet applicable requirements.

Emission Reductions from Upwind States

On August 14, 1997, Governor Ridge filed a petition with EPA asking it to reduce air pollution coming into Pennsylvania from other states. On December 17, 1999, EPA granted Pennsylvania's petition and established a NOx cap and trade program for large sources of NOx in states that significantly contribute to nonattainment in Pennsylvania. Pennsylvania will continue to aggressively support EPA's remedy in legal challenges before the United States Court of Appeals for the District of Columbia Circuit.

Pennsylvania also supports EPA's "Finding of Significant Contribution and Rulemaking for Certain States in the OTAG Region for Purposes of Reducing Regional Transport of Ozone"

(NOx SIP call). Pennsylvania was one of the first states to develop a proposed rule to implement the NOx SIP call.

Finally, on January 22, 2000, Pennsylvania published an Advance Notice of Final Rulemaking (ANFR) proposing modifications to the Pennsylvania's proposed rule implementing the NOx SIP call (Chapter 145 Interstate Pollution Transport Reduction). That ANFR proposes to require that large NOx sources located in states that significantly contribute to nonattainment of the one-hour ozone standard in Pennsylvania participate in the NOx cap-and-trade program applicable to sources located in Pennsylvania. This proposed cap-and-trade program is consistent with the Section 126 remedy established by EPA.

Additional Control Measures

Pennsylvania has identified specific additional control measures applicable to the Philadelphia ozone nonattainment area. Some measures require local emission reductions while others address both local and regional nonattainment. Pennsylvania has committed to doing its fair share to assure that the Philadelphia-Wilmington-Trenton nonattainment area and the entire Northeastern United States achieve the one-hour ozone standard by the attainment dates established by the Clean Air Act.

Chapter 145 Interstate Pollution Transport Reduction

As part of the Philadelphia Attainment Plan, Pennsylvania has committed to implementation of the NOx transport reductions. As described above, Pennsylvania has recently released an ANFR package to implement the NOx reductions both in Pennsylvania and in states significantly contributing to nonattainment in Pennsylvania.

Pennsylvania recognizes that the emission reductions from sources covered by the Chapter 145 rule located in Pennsylvania are necessary to achieve and maintain the one-hour ozone standard both in Pennsylvania and in downwind states. Pennsylvania reaffirms its commitment to proceed with implementation of that regulation.

Tier II

Pennsylvania also agrees that implementation of the Tier II standards are necessary for the Philadelphia-Wilmington-Trenton nonattainment area to achieve and maintain the one-hour ozone standard. Pennsylvania will continue to support EPA's implementation of the Tier II standards.

Stakeholder Recommendations

In 1996, Governor Ridge, through the Department of Environmental Protection and the Department of Transportation, created the Southeastern Pennsylvania Ozone Stakeholders to recommend control strategies to the Commonwealth for attainment and maintenance of the ozone standard. In January 1997, the Stakeholders released their final report, which contains a

list of recommended control strategies. A copy of that report is attached. The recommended strategies focus on the following major topics and contain a list of detailed control strategies:

- a) Funding Consistency;
- b) Area Source Emissions;
- c) Mobile Source Emissions;
- d) Stationary Sources;
- e) Trading Programs;
- f) Voluntary Measures; and
- g) Legislative Initiatives.

Pennsylvania has already implemented a number of the stakeholder recommendations and is continuing the process of implementation of those recommendations as appropriate.

OTR Reductions

As described above, Pennsylvania has committed to continuing its active role in working with the OTC to develop a "Regional Strategy Concerning the Development of New Control Measures" to be implemented across the OTR for attainment and maintenance of the one-hour ozone standard as well as other measures that individual states could implement to meet applicable requirements. The OTC MOU and draft list of control measures are attached. Pennsylvania also recognizes that if the OTC cannot reach consensus on a specific list of control strategies, individual states will need to proceed to make the necessary reductions, under Section 110(a)(2)(d), in order for the Northeastern United States to achieve the one-hour ozone standard. Pennsylvania will continue to do its fair share to achieve the ozone standard.

Additional Emission Reductions Not Modeled

Pennsylvania disagrees with EPA's conclusion that the additional emission reductions calculated using the "DRAFT – Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions Not Modeled" are necessary for Pennsylvania to attain the one-hour ozone standard. Attachment 5 to that document is a draft guidance document developed in October of 1999. It follows the "screening test defined in the proposed Guidance 8-hour ozone modeling guidance entitled *Draft Guidance on the use of Models and Other Analysis in Attainment Demonstrations for the 8-Hour Ozone NAAQS, May 1999.*" TSD III.G. The 8-hour standard was overturned by the U.S. Circuit Court of Appeals on May 14, 1999. In addition, the 8-hour standard uses an entirely different test for determining violations and attainment.

In other words, the analysis of additional reductions needed is based on two proposed guidance documents. The screening analysis that forms the basis for the approach was developed under the now remanded 8-hour standard. Clearly, EPA cannot ignore the CAA requirement to base an attainment determination on modeling and approved analytical methods and then calculate shortfalls, not identified by that modeling and analysis, using this "back of the envelope" approach.

In addition to the obvious legal problem with EPA's approach, the analysis itself contains calculation errors, is based on data not submitted by Pennsylvania as a part of the SIP demonstration, and makes invalid assumptions.

Attainment Analysis

As described above, the CAA envisions modeling to be the primary basis for determining the adequacy of a state's attainment demonstration. Pennsylvania is committed to continuing its modeling effort to demonstrate attainment and maintenance of the one-hour standard.

To ensure that the control measures contained in the Philadelphia Attainment Plan and identified above continue to demonstrate attainment, Pennsylvania will conduct such mid-course review as the Clean Air Act and the rules and regulations under the Clean Air Act require to continue to demonstrate attainment and maintenance of the one-hour standard.

Pennsylvania also recognizes that the modeling tools are continuing to improve. EPA is developing Mobile 6, an improved model for estimating emission reductions from mobile sources. Pennsylvania will use that improved tool as required by the Clean Air Act and the rules and regulations under the Clean Air Act to model the emission budgets for the Philadelphia attainment area.

Summary

Pennsylvania reaffirms its commitments to do its fair share to assure that the one-hour ozone standard is achieved in the Philadelphia-Wilmington-Trenton nonattainment area and throughout the Northeast. Pennsylvania has committed to work with the OTR to develop additional control measures for the region; to pursue, in all forums, additional emission reductions; and to develop and implement the specific additional control strategies necessary to achieve the one-hour ozone standard.

Pennsylvania will promulgate and implement the Chapter 145 Interstate Pollution Transport Reduction Standards committed to in the Philadelphia attainment demonstration. In addition, Pennsylvania believes that the EPA Tier II standards are necessary to attain the one hour standard and will continue to support their promulgation and implementation. Finally, Pennsylvania is continuing to work toward implementation of recommendations contained in the Southeastern Stakeholders Report.

Pennsylvania will also conduct any mid course review and Mobile 6 modeling analysis required by the Clean Air Act and the rules and regulations under the Clean Air Act.